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S. 1110

[Report No. 109-]

To amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2005

Mr. ALLEN (for himself, Mr. PRYOR, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

JANUARY —, 2006

Reported by Mr. STEVENS, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Engine Coolant and
5 Antifreeze Bittering Agent Act of 2005”.

1 **SEC. 2. ADDITION OF BITTERING AGENT IN ANTIFREEZE.**

2 The Federal Hazardous Substances Act (15 U.S.C.
3 1261 et seq.) is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 25. ADDITION OF BITTERING AGENT IN ANTIFREEZE.**

6 **“(a) BITTERING AGENT.—**

7 **“(1) IN GENERAL.—**Any engine coolant or anti-
8 freeze that is manufactured on or after the date that
9 is 180 days after the date of enactment of this sec-
10 tion, and that contains more than 10 percent ethyl-
11 ene glycol, shall include not less than 30 parts per
12 million, and not more than 50 parts per million,
13 denatonium benzoate as a bittering agent in order to
14 render the coolant or antifreeze unpalatable.

15 **“(a) BITTERING AGENT.—**

16 **“(1) ENVIRONMENTAL EVALUATION REQUIRED.—**

17 **“(A) IN GENERAL.—***Within 30 days after*
18 *the date of enactment of the Engine Coolant and*
19 *Antifreeze Bittering Agent Act of 2005, the Con-*
20 *sumer Product Safety Commission shall com-*
21 *mence an evaluation, in consultation with the*
22 *Environmental Protection Agency and appro-*
23 *priate State health and environmental officials*
24 *in Oregon and California, to determine whether*
25 *there is evidence that the use of the bittering*
26 *agent denatonium benzoate in engine coolant or*

1 *antifreeze has an unreasonable adverse effect on*
2 *the environment.*

3 “(B) *CERTAIN TESTS MAY NOT BE USED.*—
4 *The evaluation may not include any new animal*
5 *or human testing.*

6 “(C) *DEADLINE.*—*The Commission shall*
7 *complete the evaluation within 90 days after the*
8 *date of enactment of that Act and publish its*
9 *findings in the Federal Register.*

10 “(2) *USE OF BITTERING AGENT.*—

11 “(A) *IN GENERAL.*—*Unless the Commission,*
12 *in its evaluation under paragraph (1), finds*
13 *there is evidence of an unreasonable adverse ef-*
14 *fect on the environment, any engine coolant or*
15 *antifreeze that is manufactured on or after the*
16 *date that is 180 days after the date of publica-*
17 *tion of the Commission’s finding in the Federal*
18 *Register, and that contains more than 10 percent*
19 *ethylene glycol, shall include not less than 30*
20 *parts per million, and not more than 50 parts*
21 *per million, denatonium benzoate as a bittering*
22 *agent in order to render the coolant or antifreeze*
23 *unpalatable.*

24 “(B) *ALTERNATIVE AGENT.*—*If the inclu-*
25 *sion of denatonium benzoate in engine coolant or*

1 *antifreeze is required under subparagraph (A)*
2 *and the Commission finds that—*

3 “(i) *an alternative bittering additive is*
4 *as effective as denatonium benzoate in ren-*
5 *dering coolant or antifreeze unpalatable in*
6 *terms of both its bittering capacity and its*
7 *compatibility with motor vehicle engine*
8 *coolant and antifreeze, and*

9 “(ii) *there is no evidence that the use*
10 *of the alternative bittering additive has an*
11 *unreasonable adverse effect on the environ-*
12 *ment,*

13 *then the Commission may initiate a rulemaking*
14 *to permit the use of the alternative bittering ad-*
15 *ditive in lieu of denatonium benzoate.*

16 “(3) *UNREASONABLE ADVERSE EFFECT DE-*
17 *FINED.—In this subsection, the term ‘unreasonable*
18 *adverse effect on the environment’ means an unrea-*
19 *sonable risk to human health or the environment, tak-*
20 *ing into account the economic, social, and environ-*
21 *mental costs and benefits.*

22 “~~(2)~~ (4) *FAILURE TO COMPLY.—Any engine*
23 *coolant or antifreeze described in paragraph ~~(1)~~ (2)*
24 *that is not in compliance with that paragraph shall*
25 *be—*

1 “(A) considered to be a banned hazardous
2 substance; and

3 “(B) subject to section 5.

4 “(b) RECORDKEEPING.—

5 “(1) IN GENERAL.—A manufacturer of an en-
6 gine coolant or antifreeze described in subsection
7 (a)(1) shall maintain a record of the trade name,
8 scientific name, and any active ingredient of a
9 bittering agent used under this section.

10 “(2) AVAILABILITY TO PUBLIC.—Any record
11 maintained under paragraph (1) shall be made avail-
12 able to the public on receipt by the manufacturer of
13 a request from any person.

14 “(c) LIMITATION OF LIABILITY.—

15 “(1) IN GENERAL.—Subject to paragraph (2), a
16 manufacturer, processor, distributor, recycler, or
17 seller of an engine coolant or antifreeze described in
18 subsection (a)(1) shall not be liable to a person for
19 any personal injury, death, property damage, dam-
20 age to the environment (including natural re-
21 sources), or economic loss that results from the in-
22 clusion in the engine coolant or antifreeze of
23 denatonium benzoate in accordance with subsection
24 ~~(a)(1)~~ (a).

1 “(2) EXCEPTION.—Paragraph (1) shall not
2 apply in any case in which a cause of liability re-
3 ferred to in that paragraph is unrelated to the inclu-
4 sion in an engine coolant or antifreeze of
5 denatonium benzoate. *Nothing in this subsection*
6 *shall be construed to exempt any manufacturer or dis-*
7 *tributor of denatonium benzoate, or an alternative*
8 *bittering additive the use of which is permitted under*
9 *subsection (a)(2), from any liability related to*
10 *denatonium benzoate or the alternative bittering ad-*
11 *ditive.*

12 “(d) PREEMPTION.—No State or political subdivision
13 of a State shall establish or continue to enforce, with re-
14 spect to retail containers containing less than 55 gallons
15 of engine coolant or antifreeze, any prohibition, limitation,
16 standard, or other requirement relating to the inclusion
17 of a bittering agent in engine coolant or antifreeze that
18 is different from, or in addition to, the requirements of
19 this section.

20 “(e) EXEMPTION.—This section does not apply to—

21 “(1) the sale of a motor vehicle that contains
22 engine coolant or antifreeze; or

1 “(2) a wholesale container of engine coolant or
2 antifreeze that contains 55 gallons or more of engine
3 coolant or antifreeze.”.

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